

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 11, 2005

The Council of the City of San Jose convened in Regular Session at 9:34 a.m. in Council Chambers at City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: Gregory (excused).

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel regarding existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider cases of In Re: Halpin, In re Surgery Center, City of San José v. Movassante, et al, Proposition 22 legal Defense & Education Fund, et al. v. Gonzales, et al.; (B) to confer with Legal Counsel regarding anticipated litigation (a) of five matters where there is significant exposure to litigation pursuant to subsection. (C) confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) San José Police Officers' Association, (2) International Association of Firefighters, (3) Municipal Employees Federation, (4) Confidential Employees Organization, (5) City Association of Management Personnel, (6) Association of Maintenance Supervisory Personnel, (7) Operating Engineers, Local 3, (8) International Brotherhood of Electrical Workers, (9) Association of Building and Mechanical and Electrical Inspectors, (10) Association of Engineers and Architects, (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from Closed Session and recessed at 10:45 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, Dando, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: Gregory (excused).

INVOCATION (DISTRICT 1)

Sonia Cvitanich, Eastern European Services presented two poems for the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the Order of the Day and the Amended Agenda were approved. (10-0).

CEREMONIAL ITEMS

**1.1 Presentation of a proclamation to Lois Feidler for being selected as the Volunteer of the Year, by the Emergency Manager's Association. (Emergency Services)
(Rules-In-Lieu referral 1/5/05)**

Action: Mayor Gonzales presented a proclamation to Dr. Lois Feidler for being selected as the Volunteer of the Year, by the Emergency Manager's Association. Dr. Feidler thanked the City of San José and Council for having the Emergency Center available.

**1.2 Presentation of a commendation declaring the month of January as "School Safety Month." (Yeager)
(Rules-In-Lieu referral 1/5/05)**

Action: Council Member Yeager and Mayor Gonzales presented a commendation to Chief of Police Rob Davis and Director of Parks and Recreation Sara Hensley, declaring the month of January as "School Safety Month."

1.3 Presentation of a commendation recognizing Komag for its important contribution to the San José economy. (Mayor/Reed)

Action: Mayor Gonzales was joined at the podium by Council Member Reed and Assistant Executive Director of the Redevelopment Agency Sharon Landers to present a commendation to Mr. and Mrs. T.H. Tan and Bill Hammet of the San José based business, Komag for its important contribution to the San José economic vitality.

CONSENT CALENDAR

Upon motion by Council Member Chavez, seconded by Council Member Williams and unanimously carried, the Consent Calendar was approved as indicated with the exception of, Item 2.5 (pulled by Council Member Chavez, Items 2.10 and 2.12 pulled by Council Member Campos, Item 2.18 pulled by Council Member Reed, and Item 2.22 pulled by Council Member Williams). (10-0-1). Absent: Gregory.

2.2 (a) ORD. NO. 27324 – Rezones certain real property situated on the south side of Murphy Avenue, 450 feet westerly of Ringwood Avenue, from A Agriculture zoning district to A(PD) Planned Development Zoning District. PDC 04-071

Documents Filed: Proof of publication of title of Ordinance No. 27324 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27324 was adopted. (10-0-1). Absent: Gregory.

- 2.2 (b) **ORD. NO. 27325 – Rezones certain real property situated on the south east corner of Murphy Avenue and Ringwood Avenue from an Agriculture Zoning District to a (PD) Planned Development Zoning District. PDC 04-072**

Documents Filed: Proof of publication of title of Ordinance No. 27325 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27325 was adopted. (10-0-1). Absent: Gregory.

- (c) **ORD. NO. 27326 – Rezones certain real property situated south side of Curtner Avenue approximately 750 feet easterly of Highway 87 to a (PD) Planned Development Zoning District. PDC 04-078**

Documents Filed: Proof of publication of title of Ordinance No. 27326 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27326 was adopted. (10-0-1). Absent: Gregory.

- (d) **ORD. NO. 27327 – Rezones certain real property situated on the east side of Cypress Avenue, approximately 260 feet southerly of Stevens Creek Boulevard, to a (PD) Planned Development Zoning District. PDC 04-046**

Documents Filed: Proof of publication of title of Ordinance No. 27327 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27327 was adopted. (10-0-1). Absent: Gregory.

- (e) **ORD. NO. 27329 – Rezones certain real property situated west side of North White Road, 210 feet south of McKee Road, to CP Commercial Pedestrian Zoning District. C 04-083**

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- (f) **ORD. NO. 27322 – Amending Section 8.20.140 of Chapter 8.20 of Title 8 of the San José Municipal Code to clarify the definition of service location.**

Documents Filed: Proof of publication of title of Ordinance No. 27322 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27322 was adopted. (10-0-1). Absent: Gregory.

- 2.2 (g) **ORD. NO. 27323 - Adding a new Chapter 14.07 to Title 14 of the San José Municipal Code specifying the requirements for awarding contracts for the design and construction of Public Works pursuant to the Charter provision exempting from competitive bidding “Design-Build” contracts meeting the requirements set forth therein.**

Documents Filed: Proof of publication of title of Ordinance No. 27323 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27323 was adopted. (10-0-1). Absent: Gregory.

- (h) **ORD. NO. 27328 – Rezoning certain real property situated on the south side of Tully Road approximately 500 feet west of Senter Road to a PD Planned Development Zoning District. PDC04-076.**

Documents Filed: Proof of publication of title of Ordinance No. 27328 executed on December 21, 2004, submitted by the City Clerk.

Action: Ordinance No. 27328 was adopted. (10-0-1). Absent: Gregory.

- 2.3 **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with URS Corporation for consultant services for Jet Fuel Farm and Hydrant Fueling Feasibility Studies at Norman Y. Mineta San José International Airport for the period from the date of execution to January 31, 2007 and in an amount not to exceed \$310,000. CEQA: Resolution Nos. 67380 and 71451, PP 04-325. (Airport)**

Documents Filed: Memorandum from Director of Aviation Ralph G. Tonseth, dated December 8, 2004, recommending adoption of the resolution.

Action: Resolution No. 72473, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with URS Corporation for Consultant Services for Jet Fuel Farm and Hydrant Fueling Feasibility Studies at Norman Y. Mineta San José International Airport for the Period from the Date of Execution by the City to January 31, 2007 in an Amount Not to Exceed \$310,000”, was adopted. (10-0-1). Absent: Gregory.

- 2.4 **Adoption of a resolution authorizing the City Manager to negotiate and execute an Investment Return Agreement with Team San Jose. CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: None.

Action: This item was deferred to February 15, 2005.

- 2.5 (a) **Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the King and Story Road Improvements Project (PSM 221 #5), Blackford Streetlights Project (PSM 371 #1), and Enhanced Crosswalk Improvements (PSM 390) with a net impact to the fund of \$207,927.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditures of the Redevelopment Agency funds on certain public improvements in connection with the Enhanced Crosswalk Installation Project, as more specifically described in the memorandum from the Redevelopment Agency, dated November 5, 2004.**

CEQA: Not a Project. Council Districts 1 and 5. SNI: West Evergreen and Blackford. (City Manager's Office)

Documents Filed: (1) Supplemental memorandum from Budget Director Larry D. Lisenbee, dated January 3, 2005, providing a typographical correction to the previously submitted memo. (2) Memorandum from Budget Director Larry D. Lisenbee, dated December 8, 2004, recommending adoption of the appropriation ordinance and resolutions.

Discussion: Council Member Campos requested a correction be noted: This item includes the 680/West Valley SNI.

Action: Ordinance No. 27330, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27106 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund for the King and Story Road Improvements Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72474, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", and Resolution No. 72475, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Blackford Neighborhood in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (10-0-1). Absent: Gregory.

- 2.6 (a) Adoption of a resolution to accept SB 720 funds from the County of Santa Clara in the amount of \$2,771,632;
- (b) Amend the annual appropriation ordinance and funding sources resolution in the General Fund as follows:
- (1) Increase the City-wide Appropriation for the Automated Fingerprint Identification System (AFIS) in the amount of \$2,771,632; and
- (2) Increase the estimate for Revenue from Local Agencies by \$2,771,632.
- (c) Adoption of a resolution authorizing the Director of General Services to:
- (1) Negotiate and execute an agreement for the sole source purchase of software and hardware for Phase II of existing upgrade to the AFIS with Printrak International, a division of Motorola ("Printrak") located in Anaheim, California in the amount of \$2,292,897, including sales tax, installation and training.
- (2) Execute change orders to the agreement in an amount not to exceed \$270,920 for any additional, unanticipated requirements encountered during the implementation process for this project.

CEQA: Not a Project. (General Services/Police/City Manager's Office)

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- 2.7 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #7 and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, dated December 8, 2004, recommending approval of the award.

Action: The award was approved. (10-0-1). Absent: Gregory.

- 2.8 **Adoption of a resolution authorizing the Director of General Services to execute all documents necessary for the donation of one Utility Vehicle and one Box Type Delivery Van with a total estimated value of \$6,000 to the San José Search and Rescue Organization. CEQA: Not a Project. (General Services)**

Documents Filed: Memorandum from Interim Director of General Services Jim McBride, dated December 8, 2004, recommending adoption of the resolution.

Action: Resolution No. 72476, entitled: "A Resolution of the Council of the City of San José Approving the Donation of Two Vehicles to the San José Search and Rescue Organization", was adopted. (10-0-1). Absent: Gregory.

**2.9 Approval of two Silicon Valley Workforce Investment Network Board Nominations.
(Mayor)
(Rules Committee referral from 12/15/04)**

Documents Filed: Memorandum from Mayor Gonzales, dated January 4, 2005, recommending approval of the nominations.

Action: The nominations were approved. (10-0-1). Absent: Gregory.

2.10 Adoption of a resolution:

- (a) Overruling any and all objections to the 2004-2005 Hazardous Vegetation Commencement Report (Report); and**
- (b) Directing the Santa Clara County Department of Agriculture and Resource Management to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.**

CEQA: Exempt, PP04-01-001. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated December 8, 2004, recommending adoption of the resolution.

Discussion: Council Member Campos requested staff to report back on resources or subsidies available to assist senior and/or disabled residents on fixed incomes. Director of Planning, Building and Code Enforcement Stephen Haase agreed to provide the information via an informational memo.

Action: Resolution No. 72477, entitled: “A Resolution of the Council of the San José Overruling Objections to the 2004-2005 Hazardous Vegetation Commencement Report and Directing the Director of Planning, Building and Code Enforcement to Cause the Santa Clara County Department of Agriculture and Resource Management to Remove the Seasonal and/or Recurrent Weeds and Refuse on Those Properties Identified in the Report”, was adopted. (10-0-1). Absent: Gregory.

- 2.11 Adoption of a resolution authorizing the City Manager to execute an agreement with the Commission on Peace Officer Standards and Training (P.O.S.T.) related to components of the previously approved P.O.S.T.-reimbursed training program for peace officers in Santa Clara County for the term of July 1, 2004 to June 30, 2005 in an amount not to exceed \$158,000. CEQA: Not a Project. (Police)**

Documents Filed: Memorandum from Police Chief Robert L. Davis, dated December 8, 2004, recommending adoption of the resolution.

Action: Resolution No. 72478, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement with the California Commission on Peace Officer Standards and Training for the Previously Approved Law Enforcement Driver Training and Force Options Simulators Pilot Project”, was adopted. (10-0-1). Absent: Gregory.

- 2.12 Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the General Fund (Fund 001) for Fiscal Year 2004-05:**

- (a) Establish an appropriation in the City-wide Expenses to the Police Department for the OTS 2004-06 Sobriety Checkpoint Program for Local Law Enforcement Agencies Program Mini-Grant in the amount of \$63,224;**
- (b) Increase Earned Revenue Estimate from the State by \$63,224. CEQA: Not a project**

CEQA: Not a Project. (Police/City Manager’s Office)

Documents Filed: Memorandum from Chief of Police Robert L. Davis and Budget Director Larry D. Lisenbee, dated December 8, 2004, recommending the adoption of amendments to the ordinance and resolution.

Discussion: Council Member Campos directed staff to provide Council with a copy of the grant agreement.

Public Comments: William Garbett spoke in opposition arguing that there is no probable cause.

Action: Ordinance No. 27331, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the General Fund for the OTS 2004-2006 Sobriety Checkpoint Program for Local Law Enforcement Agencies; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 72479, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the General Fund”, were adopted. (10-0-1). Absent: Gregory.

- 2.13 Approval of an agreement with the City of Campbell to provide materials testing and geotechnical services from the date of execution through December 31, 2006, in an amount not to exceed \$130,000. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 8, 2004, recommending approval of the agreement.

Action: The agreement was approved. (10-0-1). Absent: Gregory.

- 2.14 Approval of an agreement in the amount of \$100,105 with Vincent S. Alongi and Ida A. Alongi, Trustees and Carmel M. Alongi and Stanley Paul Alongi, Trustees, for the purchase of a surface trail easement on a portion of land located at 940 Lonus Street and authorization for the Director of Public Works to execute any additional documents necessary to complete the transaction. CEQA: Mitigated Negative Declaration, PP04-01-014. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 8, 2004, recommending approval of the agreement.

Action: The agreement was approved. (10-0-1). Absent: Gregory.

- 2.15 Approval of agreement and adoption of a resolution authorizing the Director of Public Works to execute all documents related to the acceptance of a donation of property located at 686 Delmas Avenue, from the Swamy family. CEQA: Exempt, PP04-07-215. Council District 3. SNI: Greater Gardner. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated December 8, 2004, recommending adoption of the resolution.

Action: The agreement was approved and Resolution No. 72480, entitled: "A Resolution of the Council of the City of San José Approving a Donation of Property to the City of San José from Mr. Lacmaiya and Mrs. Sarasati Swamy and Directing the Director of Public Works to Execute All Necessary Documents to Complete the Transfer", was adopted. (10-0-1). Absent: Gregory.

- 2.16 Approval to reject the sole bid for the San José New City Hall In-Building Re-enforcement of Wireless Radio, Cellular, and WiFi Coverage Project, and authorization for the Director of Public Works to re-advertise and re-bid the project. CEQA: EIR Resolution No. 68905. SNI: University. (Public Works)**

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- 2.17 Report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport Tenant Improvement Phase 1-B Project. CEQA: PP04-04-135. (Public Works/Airport)**

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- 2.18 Acceptance of the Office of the City Auditor's Report of Activities and Findings for the Period of October 16 through November 15, 2004. (City Auditor) (Rules-in-Lieu referral 1/5/05)**

Documents Filed: Memorandum from Executive Assistant to the City Auditor Brad Handshy, dated December 20, 2004, recommending the acceptance of the report.

Discussion: City Auditor Gerald Silva responded to brief questions from Council Member Reed.

Action: The report was accepted. (10-0-1). Absent: Gregory.

- 2.19 Adoption of appropriation ordinance and funding sources resolution amendments in the Anti-Tobacco Master Settlement Agreement Revenue Fund and adoption of appropriation ordinance amendments in the Sewage Treatment Plant Connection Fee Fund to provide for a short-term cash flow loan in the amount of \$4.8 million. CEQA: Not a Project. (City Manager's Office/Parks, Recreation and Neighborhood Services) (Rules-In-Lieu referral 1/5/05)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Budget Director Larry D. Lisenbee, dated January 4, 2005, recommending adoption of the ordinance and resolution amendments.

Public Comments: William Garbett spoke against the staff recommendation.

Action: Ordinance No. 27332, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27196 to Appropriate Moneys in the Sewage Treatment Plant Connection Fee Fund and the Anti-Tobacco Master Settlement Agreement Revenue Fund for a Short-Term Cash Flow Loan; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution Nos. 72481, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72189 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2004-2005 to Adjust Revenues in the Sewage Treatment Plan Connection Fee Fund and the Anti-Tobacco Master Settlement Agreement Revenue Fund", were adopted. (10-0-1). Absent: Gregory.

- 2.20 Adoption of a resolution authorizing the Director of the Environmental Services Department to submit an application to the Bay Area Air Quality Management District (BAAQMD), Solid Waste Collection Vehicle Incentives, in the amount of \$350,000, to accept the grant on behalf of the City of San José, and to execute all documents necessary to implement the grant. CEQA: Mitigated Negative Declaration, PP92-05-98. (Environmental Services)
(Rules-In-Lieu referral 1/5/05)**

Documents Filed: Memorandum from Director of Environmental Service Carl W. Mosher, dated December 22, 2004, recommending adoption of the resolution.

Action: Resolution No. 72482, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Submit an Application to the Bay Area Air Quality Management District for Funds to Reduce Emissions from Solid Waste Collection Vehicles and Authorizing the Director to Execute a Funding Agreement if the Application is Approved by the Bay Area Air Quality Management District”, was adopted. (10-0-1). Absent: Gregory.

- 2.21 Approval of a contingency budget increase in the amount of \$40,000 for a total contingency budget of \$65,000 for the Coyote Creek/River Oaks Levee Trail Reach 3A/3B Project. CEQA: Exempt, PP03-07-230. Council District 4. (Public Works)
(Rules-In-Lieu referral 1/5/05)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated January 4, 2005, recommending approval of the contingency budget increase.

Action: The contingency budget increase was approved. (10-0-1). Absent: Gregory.

- 2.22 Approval of an ordinance amending Section 7.11.100 of Chapter 7.11 of Title 7 of the San José Municipal Code to create an exception to the ban on feeding wild animals for any person using an attractant to trap animals in a legally authorized or permitted manner. CEQA: Exempt, PP04-289. (City Attorney’s Office/Parks, Recreation and Neighborhood Services)
(Rules-In-Lieu referral 1/5/05)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated January 6, 2005, recommending approval of the ordinance.

Discussion: Brief discussion ensued regarding the definition of “wild” animals. City Attorney Doyle agreed to clarify whether the exception should be limited to “wild” animals as opposed to animals and noted that any changes would be made before the second reading of the ordinance.

2.22 (Cont'd.)

Action: Ordinance No. 27333, entitled: “An Ordinance of the City of San José Amending Section 7.11.100 of Chapter 7.11 of Title 7 of the San José Municipal Code to Create an Exception to the Ban on Feeding Wild Animals for Any Person Using an Attractant to Trap Animals in a Legally Authorized or Permitted Manner”, was passed for publication. (10-0-1). Absent: Gregory.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – December 15, 2004 Vice Mayor Dando, Chair

Documents Filed: The Rules Committee report of December 15, 2004.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review January 11, 2005 Draft Agenda
The Committee approved the agenda with two changes.
 - (2) Review January 4, 2005 Draft Agenda
Dropped – Holiday Closure.
 - (3) Review December 28, 2004 Draft Agenda
Dropped – Holiday Closure.
- (c) Legislative Update
 - (1) State – There was no report.
 - (2) Federal – There was no report.
- (d) Meeting Schedules.
 - (1) Request from Mayor and Chair of Blue Ribbon Task Force that Rules Committee find that the report from Investigator for San Jose Election Commission is deserving of a public hearing before the City Council, pursuant to Council Policy 0-28, City Council Conduct Policy, and that the Mayor call a Special Council Meeting for Friday, December 17, 2004, at 1:00 p.m., in Council Chambers. Attachments: Memoranda from Mayor Gonzales and Council Member Yeager, dated December 9, 2004, regarding the San José Elections Commission investigator’s report re: allegations against Council Member Terry Gregory, from Council Member Yeager, Council Member Chavez, Vice Mayor Dando, and Council Member Reed, dated December 13, 2004, requesting that Rules Committee set a public hearing to consider the censure of Council Member Terry Gregory, based on an attached resolution; and from Chief Deputy City Attorney Norm Sato addressed to City Attorney Rick Doyle, dated December 8, 2004, outlining the Council Censure Process.

3.2 (Cont'd.)

The Committee recommended approval to set a Special Council Meeting for Friday, December 17, 2004, at 1:00 p.m. in the Council Chambers to consider the censure of Council Member Terry Gregory, based on six allegations of conduct in violation of City ordinances and City policy as contained in a report to the San José Elections Commission, dated December 8, 2004, from Hanson, Bridgett, Vlahos and Rudy LLP.

- (2) Request to Change Study Session Time. Attachment: Memorandum from Assistant to the City Manager Deanna J. Santana, dated December 14, 2004, requesting a Study Session time change.

The Committee recommended approval to change the Ethics Training Study Session on January 27, 2005 from an all-day session to 12 noon to 5:00 p.m. to be held in the Health Building, Room 202 a-b.

- (3) Rules-in-Lieu.

The Committee recommended a Rules-In-Lieu meeting to be held on January 5, 2005.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated December 9, 2004, transmitting items filed for the Public Record for the period December 1-7, 2004.

The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
There were none.
- (h) Oral communications
Aaron Morrow, District 7 resident and Disability Advisory Commissioner, requested Council take periodic breaks during lengthy sessions.
- (i) Adjournment
The meeting adjourned at 2:50 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member Chavez, and unanimously carried, the Rules Committee Report and Actions of December 15, 2004 were approved. (10-0-1). Absent: Gregory.

3.3 Report of the Making Government Work Better Committee – December 8, 2004 Council Member Campos, Chair

Documents Filed: Making Government Work Better Committee report and actions of December 8, 2004.

- (a) Major IT Projects Update. Attachment: Memorandum from Interim Director of Information Technology James R. Helmer, dated December 1, 2004, recommending the acceptance of the report.

The Committee accepted the Staff report.

- (b) Family Camp
The Committee accepted the Staff report with the direction to add an additional recommendation for cost recovery to include replacement and maintenance as well as capital needs of the facility, and return to the Committee after the summer season.
- (c) Oral Petitions – None.
- (d) Adjournment
The meeting was adjourned at 4:15 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the Making Government Work Better Committee of December 8, 2004 were accepted. (10-0-1). Absent: Gregory.

Report of the Making Government Work Better Committee – December 16, 2004 Council Member Campos, Chair

Documents Filed: Making Government Work Better Committee report and actions of December 16, 2004.

- (a) Transport Vehicle Audit Follow-up to October Meeting
The Committee accepted the Staff report.
- (b) Auditor's Semi-annual Recommendation Follow-up Report for the Six Months Ended June 30, 2004. Attachment: Hardcopy of the Semi-Annual Recommendation Follow-Up Report on All Outstanding Audit Recommendations for the Six Months Ended June 30, 2004 from the Office of the City Auditor.

The Committee accepted the Staff report with the direction to attach the Police Department's comments to the Rules Committee meeting on January 12th for a recommendation.

- (c) Comprehensive Annual Financial Report. Attachment: Memorandum from Finance Director Scott P. Johnson, dated December 10, 2004, transmitting the hardcopy report.

3.3 (Cont'd.)

SEE ITEM 3.5 FOR COUNCIL ACTION TAKEN

- (d) Annual Debt Report. Attachment: Memorandum from Finance Director Scott P. Johnson, dated December 10, 2004, transmitting the hardcopy report.

SEE ITEM 3.6 FOR COUNCIL ACTION TAKEN

- (e) Quarterly Debt Report

The Committee accepted the Staff report.

- (f) Oral Petitions – None.

- (g) Adjournment – The meeting was adjourned at 2:45 p.m.

Action: Upon motion by Council Member Campos, seconded by Council Member Williams, and unanimously carried, the Making Government Work Better Committee Report and Actions of December 8 and 16, 2004 were accepted. (10-0-1). Absent: Gregory.

3.4 **Acceptance of the Findings and Recommendations of the Independent Investigator. (Independent Investigator) (Deferred from 12/14/04 – Item 3.5)**

Documents Filed: (1) Supplemental Report from Joan L. Cassman, Kurt Franklin, and M.D. Moye of Hanson, Bridgette, Marcus, Vlahos, Rudy LLP, dated January 11, 2005, providing additional information relevant to the findings and conclusions set forth in our report, dated January 7, 2005. (2) Memorandum from Mayor Gonzales, dated January 10, 2005, recommending acceptance of the report and approval of the recommendations of the Independent Investigator. (3) Memorandum from Mayor Gonzales, dated January 7, 2005, recommending continuing this item to January 25, 2005 City Council meeting. (4) Letter from Joan L. Cassman, Kurt Franklin, and M.D. Moye of Hanson, Bridgette, Marcus, Vlahos, Rudy LLP, dated January 7, 2005, enclosing the Independent Investigation Report Regarding the Request for Proposals Related to the Converged Network for the New San José Civic Center. (5) Hardcopy of Independent Investigation Report Regarding the Request for Proposals Related to the Converged Network for the New San José Civic Center, dated January 7, 2005.

Public Comments: Ross Signorino expressed his concerns with the City working with small businesses and possible recurrences of the Converged Network situation.

Discussion: Joan Cassman and Mike Moye representing the law firm of Hanson, Bridgette, Marcus, Vlahos, Rudy LLP, provided an overview of their independent investigative report. City Manager Borgsdorf summarized responses to the Report outlined in his memorandum.

3.4 (Cont'd.)

Council questions followed regarding the proposed City Manager/City Auditor Management Reforms, the investigation process, the Public Records Act request for information submitted by the SBC, and outstanding issues and disputes.

Brief discussion ensued regarding the merits of continuing the matter for two weeks to the January 25, 2005 City Council meeting.

Action: This item was continued to January 25, 2005.

3.5 Acceptance of the Comprehensive Annual Financial Report. (Finance) [Making Government Work Better Committee referral 12/16/04 - Item 3.3 (c)]

Documents Filed: (1) Memorandum from Senior Executive Analyst Nadine Nader, dated January 6, 2005, recommending acceptance of the report. (2) Hardcopy of the report presentation.

Action: Upon motion by Council Member Reed, seconded by Council Member LeZotte, and unanimously carried, the report was accepted. (10-0-1). Absent: Gregory.

3.6 Acceptance of the Annual Debt Report. (Finance) [Making Government Work Better Committee referral 12/16/04 - Item 3.3 (d)]

Documents Filed: (1) Memorandum from Senior Executive Analyst Nadine Nader, dated January 6, 2005, recommending acceptance of the report. (2) Hardcopy of the report presentation.

Public Comments: William Garbett stated the Annual Debt Report is inaccurate and doesn't account for all local districts.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, the report was accepted. (10-0-1). Absent: Gregory.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Approval of the findings and recommendations documented in the San José Medical Center Closure Impacts Study, jointly commissioned by the City of San José and Santa Clara County and conducted by Dr. Henry W. Zaretsky & Associates, Inc. CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from Mayor Gonzales, Council Members Chavez, Campos and Cortese, dated January 11, 2005, recommending direction as follows: (a) Accept the findings and recommendations indicated by the San José Medical Center (SJMC) Closure Impacts Study; and (b) Direct the Administration to: pursue/facilitate the Closure Impacts Study Recommendations; and Initiate discussions with medical health care providers, which include Health Corporation of America (HCA), towards an agreement that would address public needs and lead to a medical/health care reuse of the SJMC property or other Downtown sites in order to meet the anticipated long-term demands of the Downtown area; Report back within 30 days on progress on the recommendations, discussions, and recommended next steps, (2) Memorandum from Deputy City Manager Jim Holgersson, dated January 4, 2005, recommending the acceptance of the findings and recommendations. (3) Hardcopy of the San José Medical Center Closure Study report, dated January 2005, from Henry W. Zaretsky & Associations, Inc. (4) E-mail correspondence from 20 community members expressing opposition to the closure of the San José Medical Center and any rezoning of the site.

Discussion: Council Member Cortese requested the City Attorney to review any existing Court orders or settlement agreements that may impact the ability of San José Medical Center to cease some or all of its operations.

Public Comments: Greg Miller, Ngoc Dang, Tinh Cao, Marc Boyd, Rosylin Dean, Paula Velsey, Sac Le, Bob Bronstein, Philip Bump, John H. Farris, Mary Jane Dulleck, Sandy Perry, Yolanda Engiles, Berkley Driessel spoke in support of keeping the San José Medical Center open and in support of the memorandum issues by Mayor Gonzales and Council Members Campos, Chavez and Cortese.

Mark Trout spoke on personal religious views.

Action: Upon motion by Council Member Chavez, seconded by Campos, and unanimously carried, Council approved the memorandum from Mayor Gonzales, Council Member Chavez, Council Member Campos, and Council Member Cortese, dated January 11, 2005, with direction contained therein; with direction to the City Attorney to review any existing Court orders or settlement agreements that may impact the ability of San Jose Medical Center to cease some or all of its operations. (10-0-1). Absent: Gregory.

- 4.4 Adoption of a resolution determining that the public interest and necessity require the acquisition of an easement for surface parking, including the rights to construct a surface parking lot, landscaping, irrigation, lighting, public utilities, catch basins, and appurtenant improvements, and necessary subsurface rights, on a portion of vacant land owned by Pacific Gas and Electric Company, located at 1764 Hillsdale Avenue, San Jose, CA 95124 [APN No. 447-09-093, ptn: State Board Equalization No. 135-43-43A, PC. 1 (portion)], and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order of possession before judgment and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available.**
CEQA: Mitigated Negative Declaration, PP04-05-168. Council District 9. (Public Works/Library)
(Deferred from 12/14/04 – Item 4.5)

Documents Filed: Supplemental memorandum from Director of Public Works Katy Allen, dated January 11, 2005, providing Council with additional information and transmitting the attachment of Exhibit A-3 “ Legal Interest Description” and Exhibit A-4 “Cambrian Branch Library drawing”. (2) Memorandum from Director of Public Works Katy Allen and Library Director Jane Light, dated January 5, 2005, recommending the adoption of the resolution.

Public: William Garbett stressed concerns about health safety and Mark Trout spoke in support of eminent domain.

Action: Upon motion by Council Member Chirco, seconded by Council Member Reed, and unanimously carried, Resolution No. 72483, entitled: “A Resolution of Necessity of the Council of the City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: the Acquisition of an Easement for Surface Parking, including the Rights to Construct a Surface Parking Lot, Landscaping, Irrigation, Lighting, Public Utilities, Catch Basins and Appurtenant Improvements, and Necessary Subsurface Rights, on a Portion of Vacant Land Owned by Pacific Gas and Electric Company Located at 1764 Hillsdale Avenue, San José, California 95124 (APN No. 447-09-093 (Portion), State Board Equalization No. 135-43-43A, PC.1(Portion)); and Authorizing the City Attorney to File Suit in Eminent Domain to Acquire Such Property Interest, to Apply for an Order of Possession Before

Judgment, and to Prosecute the Action to Final Judgment, and Authorizing the Deposit of Money in the State Treasury Condemnation Fund for Possession of the Property from the Funds Lawfully Available”, was adopted. (10-0-1). Absent: Gregory.

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – December 9, 2004 Council Member Yeager, Chair

Documents Filed: Report of the All Children Achieve Committee of December 9, 2004.

- (a) Safe School Campus Initiative Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley and Police Chief Robert L. Davis, dated November 23, 2004, transmitting the Safe School Campus Initiative Report.

The Committee accepted the report.

- (b) Schools/City Collaborative Status Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated November 23, 2004, transmitting the School/City Collaborative Status Update.

The Committee accepted the report.

- (c) Discussion of Priorities for Youth Programs. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated November 23, 2004, providing a status update on the discussion of proprieties for youth program.

The Committee accepted the report.

- (d) Oral Petitions – None.
- (e) Adjournment – The meeting was adjourned at 3:10 p.m.

Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and unanimously carried, the All Children Achieve Committee Report and Actions of December 9, 2004 were accepted. (10-0-1). Absent: Gregory.

TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee – December 6, 2004 Council Member Cortese, Chair

Documents Filed: None.

- (a) Expansion and Improvement of Transit and Transportation Services
 - (1) Status of County Expressway Relinquishment Issue. Attachment: Memorandum from Director of Transportation James R. Helmer, dated November 29, 2004, recommending the acceptance of the report.

6.1 (Cont'd.)

The Committee accepted the report with one member absent.

- (2) Discussion on Transportation Technology Industry Development Opportunities. Attachment: Memorandum from Director of Transportation James R. Helmer and Deputy Executive Director of Redevelopment Agency John Weis, dated November 30, 2004, recommending acceptance of the report.

The Committee accepted the report with one member absent, and direction to staff to come back in six months with an update as to the success of the funding or the completion of phase one.

- (b) Traffic Relief/Safe Streets
 - (1) No Items

- (c) Supporting Smart Growth
 - (1) No Items

- (d) Regional Relationships/Funding/Policy
 - (1) Report on Pavement Maintenance Funding Issues. Attachment: Memorandum from Director of Transportation James R. Helmer, dated November 29, 2004, recommending acceptance of the report.

The Committee accepted the report with two members absent, and direction to staff to incorporate all the opinions voiced today into the next report in March 2005.

- (e) Oral Petitions
 - Ron Blake, Board member of the Almaden Valley Community Association, spoke on the proposal to amend the General Plan with the City to remove traffic improvements specifically the Winfield Bridge Project.

- (e) Adjournment
 - The Committee was adjourned at 3:31 p.m.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos, and unanimously carried, the Building Better Transportation Committee Report and Actions for December 6, 2004 were accepted. (10-0-1). Absent: Gregory.

PUBLIC SAFETY SERVICES

- 9.1 Approval of an ordinance amending Part 4 of Chapter 17.12 of Title 17 of the San Jose Municipal Code to add a new Section 17.12.445 to establish public safety radio coverage requirements for certain large buildings exceeding fifty thousand square feet, basements exceeding ten thousand square feet, high rise buildings, buildings with two or more stories underground, tunnels over five hundred feet in length, and buildings and structures with remote fire apparatus access and to require the installation of firefighter breathing air systems in high rise buildings, buildings with two or more stories underground and tunnels over five hundred feet in length, and to require the installation, and buildings and structures with remote fire apparatus access. (Fire)
(Rules-In-Lieu referral 1/5/05)**

Documents Filed: None.

Action: This item was deferred to January 25, 2005.

- 9.2 (a) Approval of Staff's response to the Santa Clara County Civil Grand Jury Report, Inquiry into the Financial Impact of Retirement Programs on Santa Clara County and the City of San José. (City Manager's Office)
(b) Approval of Staff's response to Santa Clara County Grand Jury Report, Inquiring into the Board Structure and Financial Management of the Valley Transportation Authority (City Attorney's Office)
(Rules-In-Lieu referral 1/5/05)**

Documents Filed: (1) Memorandum from City Attorney Rick Doyle, dated January 7, 2005, recommending disagreement with the findings and recommendation of the Grand Jury Report for the reasons set forth in the VTA response dated August 12, 2004. (2) Memorandum from Director of Employee Relations Alex Gurza, dated January 7, 2005, recommending acceptance of the response. (3) Hardcopy of the 2003-2004 Santa Clara County Civil Grand Jury Inquiry into the Board Structure and Financial Management of the Valley Transportation Authority.

Action: Upon motion by Council Member Chavez, seconded by Council Member Campos, the staff's response to the Santa Clara County Civil Grand Jury Reports were approved. (8-1-2). Absent: Gregory, Yeager. Noes: Reed. (b, only)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Items 10.1 and 10.2 in a Joint Session at 5:58 P.M.

- 10.1 (a) City Council and Redevelopment Agency Board approval of:**
- (1) A Cooperation Agreement between the City of San José and the Redevelopment Agency for implementation of the Strong Neighborhoods Initiative; and,**
 - (2) An Amendment to the FY 2004-05 Operating Expenses Cooperation Agreement between the City of San José and the Redevelopment Agency to incorporate changes related to the implementation of the Strong Neighborhoods Initiative.**
- (b) Adoption of a resolution by the Redevelopment Agency Board appropriating \$32,920 from the Redevelopment Agency's Adopted FY 2004-05 Capital Budget, Line Item SNI – Outreach and Training in the FY 2004-05 Operating Budget Support Services and amending the FY 2004-2005 Agency appropriation resolution.**
- (City Manager's Office/Redevelopment Agency)**

Documents Filed: None.

Action: This item was deferred to February 15, 2005.

- 10.2 Approval of the Redevelopment Agency and City Council Standing Committee and Board and Commission appointments. (Mayor)**
(Rules-In-Lieu referral 1/5/05)

Documents Filed: Memorandum from Mayor Gonzales, dated January 10, 2005, recommending the committee appointments.

Discussion: Council Member Reed asked staff to make two corrections to the Committee Appointee list, changing the San Francisco Bay Area Water User's Association to the Bay Area Water Supply and Conservation Authority and change the HetchHetchy Financing Authority to the San Francisco Bay Water Systems Regional Financing Authority.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, the appointments were approved, as amended.

The Redevelopment Agency Board portion of the meeting adjourned at 5:59 P.M.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9625	Northeast Corner of Vera Lane and Azucar Avenue	2	LG Developers LP	6 Units	SFD & Att.	Approve
9621	651 & 659 8 th St.	3	Steve Sheng	6 Units	MFA	Approve
9622	South side of McKee Rd., approximately 200 feet East of N. Capital Ave.	5	Core Development	21 Units	SFA	Approve

OPEN FORUM—

- (1) Mark Trout provided personal religious viewpoints.
- (2) Ross Signorino spoke on issues relating to the Council Member Gregory investigation and to the interview of witnesses.

RECESS/RECONVENE

The City Council recessed at 6:07 p.m. and reconvened at 7.08 p.m. Council Chambers, City Hall.

Present: Council Members: Campos, Chavez, Chirco, Cortese, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: Gregory(excused).

The City Clerk Lee Price, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Campos, and unanimously carried, the below noted continuances were granted. (10-0-1). Absent: Gregory.

PUBLIC HEARINGS

- 11.1 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning of the property located at the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 (568 Hillsdale Avenue), from R-1-5 and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District, to allow 26 single-family attached residential units on a 1.6 gross acre site. (George P. Thoutus Trustee et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).**

PDC 04-060 - District 10

(Continued from 10/5/04 – Item 11.4 et al, and 11/9/04 – Item 11.3)

11.1 (Cont'd.)

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated December 15, 2004, recommending approval of the ordinance. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated September 23, 2004, recommending approval of the rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number PDC04-060, dated September 15, 2004, recommending approval of the planned development rezoning.

Action: Upon motion by Council Member Pyle, seconded Council Member Reed, and unanimously carried, Ordinance No. 27334, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Hillsdale Avenue, Approximately 420 Feet East of Highway 87 to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Gregory.

11.2 **Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning of the property located at the southeast corner of Branham Lane and Birkenshaw Place (4558 Birkenshaw Pl.), from R-1-1 Residence Zoning District to R-1-8 Residence Zoning District, on a 0.23 gross acre site. (Lin Mon F, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C 04-079 - District 10

(Continued from 12/7/04 – Item 11.9)

Documents Filed: None.

Public Comments: Jerry Argenstone stated the Planning report was inaccurate in terms of lot size and density and Dennis Mirth expressed concerns about the property being used for rental.

Discussion: Council Member Pyle expressed her concerns about the proposed rezoning site being used for rental property and requested Council defer the item for two weeks and be heard in the evening of January 25, 2005.

Action: Upon motion by Council Member Pyle, seconded by Council Member Reed, and unanimously carried, the item was deferred to January 25, 2005. (11-0).

11.3 **Public Hearing on and consideration of approval of an ordinance on a Conforming Prezoning of the property located on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue (182 Kirk Avenue), from County to R-1-8 Residential District, on a 0.46 gross acre site. (Quintana Martin G, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C 04-090 – District 5

11.3 (Cont'd.)

Documents Filed: (1) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number C04-090, dated December 8, 2004, recommending approval of the planned development rezoning. (2) Letter from President of the VEP Community Association Jeri Arstingstall, dated October 8, 2004, in opposition of the rezoning. (3) Proof of publication of Notice of Public Hearing, executed on December 29, 2004, submitted by the City Clerk.

Action: Upon motion by Council Member Chavez, seconded by Council Member Williams, and unanimously carried, Ordinance No. 27335, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated the East Side of Kirk Avenue, Approximately 110 Feet Southerly of Summit Avenue, to R-1-8 Residence Zoning District", was passed for publication. (11-0).

11.4 **Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District for single-family residential uses on a 0.34 gross acre site, located at 479 Willow Street. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2)** **PDC04-065 – District 6**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated January 11, 2005, transmitting a zoning protest filed against the zoning application. (2) Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, dated December 9, 2004, recommending approval of the rezoning. (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number December 9, 2004, dated November 30, 2004, recommending approval of the planned development rezoning. (4) Proofs of publication of Notice of Public Hearing, executed on November 26, 2004 and December 5, 2004, submitted by the City Clerk.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, and unanimously carried, Ordinance No. 27336, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of Willow Street (479 Willow Street) to A(PD) Planned Development Zoning District", was passed for publication. (11-0).

OPEN FORUM

(1) Mark Trout provided personal religious observations.

ADJOURNMENT

The Council of the City of San José adjourned in memory of George Gonzales at 7:23 P.M.

RON GONZALES, MAYOR

ATTEST:

LEE PRICE, C.M.C, CITY CLERK
EW/1-11-05 Min.